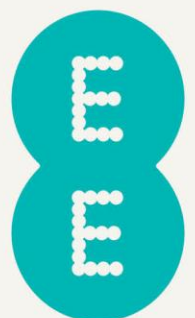


# GENERAL TERMS AND CONDITIONS FOR BUSINESS CUSTOMERS





1. **AGREEMENT STRUCTURE**

1.1 This Agreement is composed of the following documents, which apply in decreasing order of priority in the event of conflict:

- a. Any agreed Customer Order Form; Contract Change Note; addendum; or notice served by EE under clause 18;
- b. Commercial Terms;
- c. Solution Terms (including any Solution Description and Statement of Requirements where incorporated);
- d. General Terms and Conditions for Business Customers;
- e. Price Guide; and
- f. Any other document attached to or explicitly referred to in this Agreement.

2. **DEFINITIONS AND INTERPRETATION**

2.1 **Definitions**

**Additional Network Equipment** the equipment defined in a separate Additional Network Equipment Installation Agreement that may be agreed between the parties as detailed in clause 17.7.

**Call Data Records** in relation to the conveyance of any call or other communication over the Network, any data that constitutes traffic data as defined in the Privacy and Electronic Communications (EC Directive) Regulations 2003.

**Charged Basis** Equipment paid for by the Customer at List Price without the use of any Technology Fund.

**Charges** all monies payable by the Customer to EE under this Agreement as set out in the Commercial Terms or (if silent) in the Price Guide (as may be varied pursuant to clause 18 of this Agreement) including without limitation any:

- a. monthly or periodic charges payable by the Customer to access the Services ("Subscription Charges");
- b. variable charges for voice, data and text usage and any other Services and other non-recurring charges payable by the Customer ("**Usage Charges**");
- c. lump sum termination charges set out in the Commercial Terms and Solution Terms payable by the Customer in the circumstances set out within clause 21.3 ("**Termination Charges**");
- d. one off charges payable by the Customer for installation of Installed Equipment by EE or a Sub-contractor ("**Installation Charges**"); and

e. additional fees set out in the Price Guide for specified administration or account activity ("**Additional Charges**"), including without limitation the following:

- i. Device Unlocking Fee,
- ii. Replacement SIM Card Fee, and
- iii. Suspension Lifting Fee.

**Confidential Information**

any commercial or technical information in whatever form which is disclosed by one party to the other party and which would be regarded as confidential by a reasonable business person including, without limitation, all business, statistical, financial, marketing and personnel information, customer or supplier details, know-how, designs, trade secrets or software of the disclosing party or any member of its Group.

**Connection**

a connection by which EE gives the Customer access to the Network, including via a SIM Card that has been configured to attach to the Network, or via any other connection specified in the Agreement. "**Re-Connection**", "**Connect**" and "**Connected**" each have a corresponding meaning. A Connection may (without limitation) be a Connection:

- a. with some inbound or outbound communications activity and which is not an Inactive Connection ("**Active Connection**");
- b. which is already Connected at the commencement of this Agreement ("**Existing Connection**");
- c. which is Connected under this Agreement over and above the Connections specified in the Initial Order, but which is not a Re-Connection or transfer or reallocation of a Connection between Users ("**Future New Connection**"); or
- d. with no inbound or outbound communications traffic in any consecutive 3 month period ("**Inactive Connection**").

**Contract Change Note**

the communication issued by EE by email or via [www.salesforce.com](http://www.salesforce.com) from [name@echosign.com](mailto:name@echosign.com) detailing the Customer's requested change to this Agreement.

**Credit**

a notional credit which has no cash redemption or equivalent value and that can be used by the Customer to purchase airtime ("**Airtime Fund**") or Equipment at the List Price ("**Technology Fund**") from EE in accordance with the terms of this Agreement, and any other contractual credit, subsidy, fund, discount, BACS or other payment which EE agrees to provide under this Agreement, including without limitation additional credits that EE may agree to provide to the Customer where:

- a. a Future New Connection is added to a

# GENERAL TERMS AND CONDITIONS

## FOR BUSINESS CUSTOMERS



Service Plan during the Minimum Agreement Term ("**Future New Connection Credit**"); or

- b. a specified data bundle is added at the same time as a Future New Connection during the Minimum Agreement Term ("**Enhanced Credit**").

**Customer Equipment** any equipment and/or software used by the Customer which is not provided by EE.

**Customer Representative** a representative of the Customer with the authority to bind the Customer in relation to the Agreement, as detailed in the Commercial Terms or the Statement of Requirements, or as otherwise notified to EE.

**Data Controller** has the meaning set out in the Data Protection Act 1998.

**Data Protection Legislation** means the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (s/2000/2699), any amendments or replacements to them and all other applicable laws and regulations relating to the processing of personal data and privacy.

**Device** any mobile or wireless device, handset, USB drive, data card, memory card or other equipment incorporating a SIM Card, or tablet (which may or may not incorporate a SIM Card), provided by EE for use in connection with the Services.

**Disconnect** removal of access to the Network of a Connection. "**Disconnection**" shall have a corresponding meaning.

**EE** EE Limited, registration number 02382161, registered office at Trident Place, Mosquito Way, Hatfield, Hertfordshire AL10 9BW (or any organisation that may succeed it as the assignee of this Agreement).

**EE Software** any software, excluding End User Licensed Software, that is owned by EE or licensed by EE on behalf of a third party, and which may be updated from time to time.

**End User Licensed Software** software licensed to the Customer by a separate agreement with the licensor of such software, as set out in the General Terms and Conditions for Business Customers or Solution Terms of this Agreement or by any 'shrink wrap' or 'click through' licence agreement or in box documentation provided.

**Equipment** the Devices and Installed Equipment (both of which may contain Software) set out in Part 2 of the Commercial Terms and any other equipment, including SIM Cards, that may be supplied by EE to enable the Customer to access the Services as agreed between the

parties from time to time.

**Funded Basis** Equipment supplied without charge or purchased by the Customer (in full or in part) using a Technology Fund.

**Group** any entity or person controlled by, controlling or under common control with EE or the Customer (as applicable), from time to time. For the purpose of this definition the term "control" means ownership, directly or indirectly, of: (i) equity securities entitling it to exercise, in aggregate, 50% or more of the voting power in such corporation or other entity; (ii) 50% or more of the interest in the profit or income in the case of a business entity other than a corporation; or (iii) in the case of a partnership, any other comparable interest in the general partnership.

**Initial Order** the initial order for Services and Equipment which the Customer commits to take and EE commits to supply upon commencement of this Agreement, as set out in the Commercial Terms.

**Insolvency Event** an event where either party:

- a. ceases, threatens to cease or suspends trading or carrying on business (other than temporarily by reason of a strike); or
- b. suspends payment of its debts or is or becomes unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986) or commits any act of insolvency, or enters into a composition or voluntary arrangement with its creditors, or has a receiver or administrator appointed over the whole or any part of its business or assets, or has a creditor's winding up petition advertised against it in the appropriate Gazette, or passes a resolution to wind up (other than for the purposes of a solvent amalgamation or reconstruction), or is the subject of any action or procedure commenced in any jurisdiction which is similar to or analogous with any above-mentioned action or procedure.

**Installed Equipment** any antennae, routers, enhancers, monitoring units or other equipment, including but not limited to equipment forming part of the Network, which EE may agree to install or otherwise provide for installation by the Customer at any premises owned, occupied or controlled by the Customer. Installed Equipment excludes Additional Network Equipment.

**Insurance Terms and Conditions** the terms and conditions applicable to any insurance product offered by EE as set out in the Commercial Terms and as at [www.ee.co.uk/business/terms](http://www.ee.co.uk/business/terms).

**Intellectual Property Rights** copyright, database rights, design rights, patents, trade marks, service marks, domain names (whether or not any of the same are registered and including applications for registration of the same) and confidential information, know-how and all other intellectual property or forms of protection of similar nature



or having equivalent or similar effect to any of the same, which may subsist in any part of the world.

**List Price** the standard prices for services and equipment as current at the time the price needs to be determined.

**Minimum Agreement Term** the minimum term of this Agreement, as detailed in the Commercial Terms.

**Minimum Connection Period** the minimum period for which the Customer commits to receive a particular Service or keep a Connection Connected to the Network as detailed in Part 1 of the Commercial Terms or as may be agreed between the parties from time to time.

**Minimum Spend** the minimum sum set out in the Commercial Terms that the Customer commits to pay to EE in Charges in relation to a particular Service or Services during the Minimum Agreement Term.

**Network** the electronic communications systems by which EE makes Services available in the United Kingdom and any other type of communications system which may be provided by EE.

**Personal Data** has the meaning set out in the Data Protection Act 1998.

**Personal Line** a second Connection on the same SIM Card with a different phone number.

**Price Guide** the applicable list of current standard prices, terms and conditions for certain standard services as updated from time to time and published at [www.ee.co.uk/businesssterms](http://www.ee.co.uk/businesssterms). To the extent that there is any conflict between the Price Guide and any other point of sale pricing information, the Price Guide takes precedence.

**Roaming** a Service Plan Add-On by which the Customer can use a SIM Card to connect to another network whilst outside of the UK.

**Service(s)** the service(s) set out in the Initial Order and any other services that may be agreed between the parties from time to time, which may include Solutions, Service Plans and Service Plan Add-Ons and may contain or use Software.

**Service Commencement Date** the date on which EE commences supply of a particular Service to the Customer.

**Service Plan** a service provided by EE to the Customer for an agreed Subscription Charge.

**Service Plan Add-On** an additional service added to a Service Plan for an agreed Subscription Charge. Service Plan Add-Ons specified as "Fixed" shall have a Minimum Connection Period identical in length to the original Minimum Connection Period of the Service Plan the Service Plan Add-On is added to.

**Shared Service Plan Add-On** a Service Plan Add-On under which Services are shared between a specified group of Users.

**SIM Card** a subscriber identity module supplied to the Customer by EE.

**Single Service Plan Add-On** a Service Plan Add-On under which additional services may only be used by individual Users.

**Software** EE Software and End User Licensed Software, as updated from time to time.

**Solution** a business solution (which may include services and Equipment) to which additional requirements, technical details, commercial and support arrangements, terms and conditions may apply as set out in the Solution Terms.

**Solution Description** a specification document relating to complex Services or Equipment provided by EE, as may be amended from time to time in accordance with clause 5.2 and as notified to the Customer.

**Solution Terms** Solution terms and conditions available at [www.ee.co.uk/businesssterms](http://www.ee.co.uk/businesssterms) either as standalone documents or within the Price Guide. Solution Terms may incorporate a Solution Description and/or Statement of Requirements which shall be provided separately to the Customer.

**Statement of Requirements** an EE form that may be used to detail the Customer's requirements in relation to a particular Service which shall be agreed in accordance with clause 5.4.

**Sub-contractor(s)** any person appointed by EE to perform EE's obligations under this Agreement to the Customer on EE's behalf.

**User** the Customer or anyone who is permitted by the Customer to use the Service(s) under this Agreement.

**Working Day** any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in the UK.

2.2 Interpretation

- a. any reference to the plural includes the singular and vice versa.
- b. any reference to a statutory or regulatory requirement will: (a) include any relevant Act of Parliament, subordinate legislation or other enforceable right; and (b) be construed as a reference to that requirement as may be amended, replaced extended or consolidated from time to time.
- c. general words will not be given a restrictive meaning where they follow one or more specific terms indicating a particular category of act, matter or thing or where they are followed by examples. The words "including" and "in particular" (or similar) will not limit the generality of any preceding words.



**3. COMMENCEMENT AND TERM**

3.1 This Agreement shall commence on the date of last signature and shall continue until the last remaining Service expires or is terminated by either party in accordance with this Agreement.

3.2 The Minimum Agreement Term shall commence on the date that the Customer's EE account is activated (activation being the date the Customer's first Connection is Connected to the Network). The Customer will have up to 90 days from the commencement of this Agreement within which to activate its account after which EE will otherwise activate the Customer's whole account.

3.3 The Minimum Connection Period for each Connection shall commence on the date that individual Connection is given access to the Network. The Minimum Connection Period for each Service shall commence on the Service Commencement Date.

**4. SUPPLY OF SERVICES AND AGREEMENT**

4.1 EE agrees to supply, and the Customer agrees to receive, the Services and Equipment subject to the provisions of this Agreement.

4.2 EE shall supply each Service from its Service Commencement Date for its Minimum Connection Period and thereafter until the Service expires or is terminated by either party in accordance with this Agreement.

4.3 Subject to clause 11, the Customer agrees that it is procuring the Services and Equipment for its own use and for the benefit of its Users as authorised by and in accordance with this Agreement and it will not re-sell, re-supply or otherwise distribute the Services and Equipment or allow Users to do so.

**5. SOLUTIONS AND STATEMENT OF REQUIREMENTS**

5.1 EE will ensure that the Services and Equipment comply in all material respects with any Solution Description provided or Statement of Requirements agreed. In the event of a conflict between the Solution Description and the Statement of Requirements for a particular Solution, the Statement of Requirements shall take precedence.

5.2 Changes to the Solution Description (including without limitation improvements and upgrades) may be offered to the Customer from time to time. Such changes may be subject to additional Charges. If the changes are accepted by the Customer, the new Solution Description shall then apply to the Customer's Solution and where applicable, any such additional Charges shall be payable in accordance with clause 7.

5.3 If the Customer orders a Solution to which a Statement of Requirements applies (as specified in the online Solution Terms), EE and the Customer shall agree the final contents of that Statement of Requirements in writing, in accordance with the process set out in clause 5.4, before EE provides the Solution.

5.4 Upon either party completing a Statement of Requirements, the other party may agree to the proposed Statement of Requirements or revise it with suggested amendments for approval or revision by the original party. Any revised Statement of Requirements will then follow the same approval or revision process. The Statement of Requirements shall only be incorporated into the Customer's Agreement when EE

communicates to the Customer in writing that the Statement of Requirements is in final and agreed form.

5.5 If the Statement of Requirements has not been agreed within 14 days of the date of this Agreement or the applicable Contract Change Note for the Solution and any such delay is not as a result of EE's actions, EE may, at its discretion and without the Customer being liable for Termination Charges for the relevant Solution:

- a. charge the Customer an administrative fee to cover EE's reasonable expenses caused by the delay; and/or
- b. terminate the Solution, in which case the Customer shall return to EE, in good condition, all Equipment supplied by EE for the Solution whether on a Charged Basis or Funded Basis, and title in any Equipment supplied on a Funded Basis shall revert back to EE. Where Equipment is not returned, or in EE's reasonable opinion is not returned in good condition, EE reserves the right to charge the Customer at the List Price for such items.

**6. STANDARD OF SERVICE**

6.1 EE will use its reasonable endeavours to provide the Services where technically possible within the range of the base stations that make up the Network, however EE is unable to guarantee a continuous fault-free service and has no obligation to provide any Services outside the range of these base stations.

6.2 The Customer acknowledges that, as Network design is an on-going process, the range of base stations making up the Network may change from time to time, at EE's discretion, and that at any time the Network may comprise of different technologies. The Services are made available provided the Customer is in the range of base stations forming part of the relevant technological Network when trying to use any particular Service. Any coverage maps are EE's estimate of outdoor coverage and do not guarantee Service coverage which may vary depending on location.

6.3 The quality and availability of the Services is also subject to:

- a. local geography and topography;
- b. weather and/or atmospheric conditions;
- c. degradation, congestion or maintenance requirements of the Network including but not limited to re-positioning and/or decommissioning of base stations;
- d. other physical or electromagnetic obstructions or interference;
- e. faults in other telecommunication networks to which the Network is connected; and
- f. the compatibility of Equipment and/or Customer Equipment used.

**7. CHARGES AND PAYMENT**

7.1 The Customer is responsible for paying all Charges incurred for Services and Equipment on its account and must pay the Charges in full and without any deduction or set off within the time period specified in Part 5 of the Commercial Terms. The Customer is responsible for notifying its Users if it does not



wish Users to incur any particular Charges or use any particular Services.

7.2 EE will invoice the Customer monthly in advance for Subscription Charges, monthly in arrears for Usage Charges, and after dispatch for any Equipment ordered from EE. Charges in respect of Services not supplied directly by EE such as (but not limited to) Roaming may be invoiced several months in arrears by EE.

7.3 The Customer will notify EE in writing of any disputed invoice within 14 days of the date of such invoice, including the full facts of the dispute. The Customer must pay the undisputed portion of the invoice in accordance with the terms of this Agreement and in good faith co-operate with EE to resolve the dispute. Any sum agreed to have been correctly invoiced will be paid and any sum incorrectly invoiced will be resolved by appropriate credit to the Customer's account (in each case within 7 days of resolution).

7.4 If any payment is not made when due, EE may charge interest on all sums outstanding from the date they fell due at the rate of 4% per annum above the base rate of National Westminster Bank plc from time to time in force. This interest shall accrue on a daily basis both before and after settlement or judgment until payment is made. EE may further take any or all of the following actions until payment for Charges not the subject of a dispute in good faith is received:

- a. withhold and set-off any sums owed by EE to the Customer (including any Credit) against the sums owed by the Customer to EE;
- b. suspend the Service(s) in relation to which the Charges are outstanding in accordance with clause 19.4; and/or
- c. issue a notice pursuant to clause 20.3a on the basis that the parties agree that such non-payment shall be a material breach of this Agreement.

## 8. CUSTOMER CHANGES AND NEW ORDERS

8.1 New orders may be placed by the Customer at any time during the term of this Agreement, subject to acceptance by EE at its sole discretion. New orders shall become effective upon EE's explicit acceptance of an order form ("**Customer Order Form**"), provided that the Customer Order Form:

- a. uses the current standard EE order form format;
- b. is completed in full; and
- c. is accompanied by the Customer's letterhead or recognised purchase order clearly referring to the number of this Agreement. The Customer Order Form shall not incorporate or be subject to any additional Customer terms and any such terms attached or purported to be incorporated by the Customer shall not apply.

8.2 Changes requested by the Customer shall become effective upon agreement by the parties of a Contract Change Note or execution of an addendum.

8.3 Minor changes requested by the Customer, such as the addition, removal or restriction of access to Service Plan Add-Ons, can (subject to meeting the required eligibility criteria) be made by contacting EE. Additional terms and conditions may

apply to Service Plan Add-Ons as set out in the Price Guide, and use by the Customer will constitute the Customer's acceptance of any such additional terms.

## 9. RE-SIGNS

9.1 Existing Connections which are re-signed under this Agreement shall be governed by this Agreement and no other. Existing Connections not re-signed under this Agreement shall be governed by the Customer's original contract unless agreed otherwise.

## 10. USE OF THE SERVICES AND EQUIPMENT

10.1 The Customer shall, and shall procure that its Users shall:

- a. keep confidential and do not disclose to any third party any Customer account password, personal identification code, number or name issued by EE permitting access to the Services and Equipment;
- b. provide in a timely manner any information and/or assistance EE requires in order to supply the Services and Equipment, ensuring the continuing accuracy and completeness of such information;
- c. comply with any manuals, guidance and any reasonable instructions issued by EE or relevant third party manufacturer or supplier concerning the use of the Equipment, Services and Network and co-operate with EE's reasonable security and other checks (which may include EE making calls or sending communications to Users);
- d. only use Equipment or Customer Equipment which is authorised by EE (such authorisation not to be unreasonably withheld) and compatible for use on the Network;
- e. inform EE upon becoming aware of any suspected or actual unauthorised use of the Services or Equipment and take all steps necessary, including any steps requested by EE, to prevent such use;
- f. not operate, whether directly or through a third party, any device to route or re-route voice, data or other Services on, from or to the Network, including without limitation:
  - i. any GSM Gateway, or
  - ii. any device used to forward or divert calls with the intention of reducing Charges for that call except where a Device is supplied as part of a Service by EE and used by the Customer in accordance with the Service terms;
- g. comply with all licence terms as required from time to time for any Software;
- h. do not use, nor knowingly allow the Equipment or Services to be used:
  - i. for any unlawful or improper purpose or in such a manner that will or may impair the operation of the Network or EE's provision of the Services to the Customer or other users,



- ii. in any way which causes annoyance, inconvenience or needless anxiety as set out in the Communications Act 2003, nor use the Network or the Services to send spam or unsolicited communications without the receiver's consent,
- iii. to send, store, communicate or knowingly receive content which is abusive, indecent, defamatory, obscene, menacing, unlawful or a nuisance, or
- iv. in any way that breaches the provisions of clauses 23 and 24 or contravenes the Intellectual Property Rights of EE's Group or any third party;
- i. not knowingly distribute malicious software or permit the hacking or unauthorised modification of any Equipment or Software or the Network;
- j. comply with any applicable fair use policy that EE may issue from time to time; and
- k. comply with all applicable regulatory provisions, laws, codes of conduct and guidelines.

10.2 The Services may enable access to the internet, use of which is solely at the Customer's risk. EE has no control over and is not responsible or liable in any way for any content offered by third parties on or through the Services. The Customer agrees that it retains responsibility for, and control of, content which it sends or passes over the Network.

10.3 Use of the Services and Equipment or any content accessed through them in a country other than the UK may be subject to different laws and regulations. The Customer is responsible for ensuring compliance with such laws or regulations and EE is not liable for any failure of the Customer or its Users to do so.

10.4 The Customer shall be responsible for implementing its own data archiving and data back-up processes. The Customer acknowledges that it may be required to restore data from its back-up to relevant systems to enable a Service to continue to be provided.

10.5 The Customer acknowledges and agrees that EE may monitor and record calls or other communications to emergency services and calls or other communications relating to EE customer services and telemarketing.

#### 11. CUSTOMER GROUP

11.1 Subject to clause 11.2, the Customer may permit other members of its Group as notified to EE from time to time to place orders under this Agreement and use the Services and Equipment supplied by EE under this Agreement, provided that any act or omission of such members of the Customer's Group shall for the purposes of this Agreement be deemed to be the act or omission of the Customer.

11.2 The Customer shall procure that such Group members fully comply with the terms of this Agreement. The relevant member of the Customer's Group may, on request, be billed separately for the Charges incurred by that member, provided that the Customer shall ultimately remain liable to pay all Charges in respect of the use of the Services and/or Equipment by other members of its Group.

#### 12. RISK AND TITLE

12.1 Subject to clause 12.2, title to any Equipment supplied by EE on a Charged Basis passes to the Customer once the Customer has paid for such Equipment in full, and title to any Equipment provided by EE on a Funded Basis shall pass to the Customer on delivery.

12.2 Unless otherwise agreed in writing, title and property in any SIM Cards, Software and Installed Equipment shall remain vested in EE or the appropriate third party and the Customer is hereby granted a licence to use any SIM Cards and any Installed Equipment only for accessing the Services during the term of this Agreement.

12.3 All risks in any Equipment, SIM Card and Software pass to the Customer on delivery or, in the case of Installed Equipment, on installation. Any Equipment, SIM Card or Software returned to EE shall be done so at the Customer's risk until received by EE.

#### 13. EQUIPMENT

13.1 The Customer must satisfy itself that all Equipment is suitable for its intended purpose and requirements. EE will use reasonable endeavours to provide the Equipment. Certain Services may require specific equipment and the Customer acknowledges that it may have to purchase certain equipment to benefit from the full functionality and range of Services.

13.2 Devices will only be unlocked for use on another UK mobile network where technically possible and at the Customer's request after completion of the relevant Minimum Connection Period and provided all Charges and the Device Unlocking Fee have been paid.

13.3 Equipment may be subject to additional terms (such as user manuals and in box documentation) which the Customer accepts by retaining and using such Equipment. If the Customer does not consent to such additional terms it must (at its cost) return such Equipment within 7 days of delivery.

13.4 The Customer must inform EE immediately if it becomes aware of the loss, theft or damage of any Equipment, and shall remain liable for all Charges incurred by the use of any lost or stolen Equipment until reported to EE. Data on any lost or stolen Equipment is at the Customer's risk and the sending of any command for remote wiping of data (such as a device management solution) is the responsibility of the Customer. The Customer must send any remote wipe command prior to reporting the Device lost or stolen and EE will use reasonable endeavours to carry such command across the Network. The Customer acknowledges that once the loss or theft of the Equipment is notified to EE, EE will terminate the ability of the Device to communicate with the Network.

13.5 EE may recall, update or have access to the Equipment as reasonably required to enhance or maintain the quality of Services or to update Software, but will endeavour to minimise any disruption caused to the Customer.

13.6 Notwithstanding clause 10.1d, the Customer acknowledges that it has carried out its own investigations as to the suitability of any Customer Equipment used with the Equipment and that EE has made no representations or warranties in relation to the suitability of the Equipment for use with the Customer Equipment (or vice versa). The Customer will ensure that any Customer Equipment is compatible with the Network and



- adheres to any technical parameters and guidelines issued by EE from time to time.
- 13.7 EE does not warrant the availability of any Equipment and may from time to time amend the range of Equipment available or withdraw particular Equipment from sale or supply a comparable replacement where the Equipment ordered by the Customer is not available at the time of despatch.
- 13.8 The Customer acknowledges that any support services that may be provided by EE are only provided for the specified Equipment and that EE does not provide support for any other equipment (including without limitation Customer Equipment).
14. **INSTALLED EQUIPMENT**
- 14.1 Where EE installs Equipment for the Customer, the Customer will notify EE of any health and safety and security policies in relation to the Customer's premises and EE will comply with any such reasonable policies notified in advance to EE. The Customer shall ensure that all necessary and appropriate authorities, licences and consents have been obtained and complied with in order to allow EE to install Equipment and that it provides a suitable and safe working environment for EE.
- 14.2 Where EE provides Installed Equipment, the Customer agrees:
- to grant EE the right to install, store, operate, maintain and support any Installed Equipment on the Customer's premises to enable provision of the Services;
  - to provide EE with reasonable access to the Customer's premises and systems during normal office hours and if necessary outside these hours for the installation, implementation, de-commissioning, removal and ongoing maintenance and support of the Services and/or Equipment; and
  - not to modify, tamper, move or interfere with any Installed Equipment in any way other than to assist with any installation and implementation, without the prior written consent of EE, nor to use the Installed Equipment for any purpose other than for the Services.
- 14.3 EE reserves the right to make further charges in respect of installation services if, as a result of the Customer's acts or omissions, installation cannot be completed on the agreed date.
- 14.4 On completion of installation of the Installed Equipment, EE will carry out acceptance testing to confirm that the relevant Service is operational. Upon the completion of such acceptance testing to the reasonable satisfaction of EE and the Customer, the Customer shall provide a written sign-off confirming acceptance of the installation. Following such acceptance, EE will not be responsible for providing further installation and implementation services to the Customer and if any such services are required, EE may charge the Customer reasonable fees to be agreed with the Customer.
- 14.5 The Customer agrees that it shall maintain at its own expense, policies of insurance against public liability and other third party liability in connection with any injury (including death), loss or damage to any persons or property belonging to any third party arising out of or in connection with the Customer's use of the Services, including the storage of the Installed Equipment on the Customer's premises.
- 14.6 If EE causes any damage to the Customer's premises during the installation of the Installed Equipment due to EE's negligence, EE will cover the reasonable costs of any work that is needed to restore the premises to its original condition before the damage occurred. In all other cases, restoration is the Customer's responsibility.
15. **UPGRADES**
- 15.1 The Customer may replace a Device in use by purchasing another Device ("**Upgrade**") at any time during this Agreement provided the Upgrade is used in connection with the Services and any new SIM Card provided with the Upgrade is Connected to the Network.
- 15.2 Where the Customer:
- receives additional Credit as a result of the Upgrade; or
  - receives an Upgrade free of charge (and such Upgrade does not utilise the existing Technology Fund),
- then the Minimum Connection Period applicable to that Connection shall re-start from the date of dispatch of the Upgrade by EE.
- 15.3 Upgrades will be subject to the relevant Service Plan and Service Plan Add-On Charges detailed in the Commercial Terms or (if silent) in the Price Guide.
16. **WARRANTY**
- 16.1 EE shall procure that the Customer receives the benefit of the manufacturer's warranty for all new Equipment (excluding SIM Cards) where it is able to do so for a period of no less than 12 calendar months from delivery. All out of warranty replacements will be charged to the Customer at List Price.
- 16.2 SIM Cards which are defective due to faulty materials or workmanship will be replaced by EE at no charge for the duration of this Agreement. The Customer understands and acknowledges that SIM cards have a limited lifespan and may need replacing from time to time. All other replacements of SIM Cards are subject to payment by the Customer of a Replacement SIM Card Fee.
- 16.3 The Customer shall notify EE within 14 days of receipt if any Device has arrived damaged and/or faulty or if an order has been incorrectly fulfilled. EE shall replace such damaged or faulty Device with a new Device.
- 16.4 EE warrants that the EE Software shall conform in all material respects to the manufacturer's specification for a period of 3 months from the date of delivery of the EE Software. EE's sole obligation and liability for breach of this warranty will be to promptly repair or replace (at EE's expense) the defective EE Software.
- 16.5 The above warranties are subject to compliance by the Customer and other Users in all material respects with all relevant licences, specifications, user manuals, any other user guidelines and any manufacturer's conditions specified in the warranty. EE shall not be liable for faults in or malfunction of any Equipment or EE Software where:
- the Customer or Users have failed to comply with such licences, specifications, manuals, guidelines or conditions; or





- b. any alteration, modification or addition has been made to the Equipment or EE Software without EE's prior written consent.
- 16.6 The Insurance Terms and Conditions will apply to this Agreement where specified in the Commercial Terms.
17. **MOBILE SERVICES**
- 17.1 Each Service and Connection under this Agreement shall remain Connected for its Minimum Connection Period and in consideration of the offer set out in the Commercial Terms the Customer agrees that any Existing Connections shall start a new Minimum Connection Period from commencement of this Agreement.
- 17.2 The Customer acknowledges that the functionality of certain Services is interconnected and that in such circumstances the Customer cannot receive one Service without also purchasing another. Therefore, where the Customer wishes to add a Service ("**New Facility**") which relies on the Customer continuing to purchase an existing Service from EE ("**Base Facility**"), the Customer agrees that the Minimum Connection Period for the Base Facility will be required to meet the longer of:
- a. the Minimum Connection Period of the New Facility; and
- b. the Minimum Connection Period in respect of the Base Facility.
- 17.3 All SIM Cards shall be supplied by EE pre-Connected. The Customer must start using SIM Cards as Active Connections within 30 days of delivery. EE shall liaise with the Customer to determine at EE's sole discretion whether there is a justifiable reason for the Customer to delay using SIM Cards. EE reserves the right to Disconnect Inactive Connections or to re-allocate these where the Customer requests new Connections, to enable the proper management of Inactive Connections.
- 17.4 Connections may be provided with access to certain Service Plan Add-Ons enabled, the terms and conditions of which are set out in the Price Guide.
- 17.5 Where a regulatory authority requires the re-allocation or change of phone numbers, EE reserves the right (without liability) to change the phone numbers allocated to the Customer to access the Services, but shall use its reasonable endeavours to minimise the disruption caused.
- 17.6 It is the Customer's responsibility to configure at its own cost any virtual private network not supplied by EE which it may use in conjunction with the Services. EE does not warrant that any virtual private network not specifically approved for use by EE will be compatible with the Services and shall bear no liability for any such lack of compatibility.
- 17.7 EE may need the Customer to grant rights to allow EE to install, maintain, upgrade and operate Additional Network Equipment at certain of the Customer's properties, and the parties acknowledge that:
- a. such rights shall only be exercised at a particular property following the completion of (and in accordance with the terms of) a separate Additional Network Equipment Installation Agreement for that property in the form provided to the Customer by EE, which agreement:
- i. shall be granted by the Customer at a nominal consideration, and
- ii. EE and the Customer shall (subject to the Customer having the right to make reasonable amendments to the form of the agreement) expeditiously complete; and
- b. any such agreement will not form part of this Agreement.
18. **VARIATIONS BY EE**
- 18.1 EE may by issue of a notice to the Customer (sent by post, e-mail or text message) vary the provisions of this Agreement where such variation is required as a result of:
- a. any legislation, statutory instrument, government regulation, regulatory requirement or licence;
- b. changes imposed by third party manufacturers or suppliers; or
- c. a change to EE's operations provided such change is also implemented in relation to the majority of EE's business customers.
- 18.2 Where any variation by EE to this Agreement is likely to be of material detriment to the Customer, EE will give the Customer at least one month's written notice of the variation (save where this is not practicable due to a change imposed by a legal or regulatory body) and the Customer will have the right to terminate the relevant Service and/or Equipment in accordance with clause 20.4.
- 18.3 For the purposes of this clause, the parties agree that an increase in the Charges (as a percentage) equal to or less any increase in the retail prices index (also calculated as a percentage) or any other statistical measure of inflation published by any government body authorised to publish measures of inflation from time to time, in the 12 month period before any increase shall not constitute a material detriment to the Customer.
- 18.4 Subject to clause 18.2, EE may also from time to time vary:
- a. the Charges; and/or
- b. the prices, terms and conditions set out within the Price Guide and/or the online Solution Terms.
- Where the Charges are set out in the Commercial Terms, such variation shall take effect from the date the variation is notified to take effect to the Customer. The Customer agrees that variations to the Price Guide and the online Solution Terms shall take effect from the date the variation is published at [www.ee.co.uk/business/terms](http://www.ee.co.uk/business/terms) and that such publication shall constitute adequate notification of the variation. It shall be the responsibility of the Customer to review the Price Guide and any relevant online Solution Terms periodically. EE recommends that the review of the Price Guide is carried out by the Customer no less than every 30 days.
- 18.5 Subject to clause 18.2, EE may at any time, withdraw any Service or Equipment where it is either no longer able to provide the Service or Equipment because its nominated third party supplier no longer provides the Service or Equipment to EE, or where EE has decided that the Service or Equipment is no longer suitable to its business operations, provided it gives



the Customer at least 60 days' notice of such withdrawal. The Customer shall not be liable to pay any Termination Charges in respect of the relevant Service or Equipment where EE exercises its rights under this clause.

## 19. SUSPENSION

19.1 EE may, without liability to the Customer, suspend the Customer's and/or any or all Users' access to any relevant part, or where necessary all, of the Services:

- a. during any technical failure, modification or maintenance of the Network;
- b. upon instruction by emergency services or any government, regulatory or appropriate authority; or
- c. where necessary to safeguard the integrity and security of the Network or to reduce fraud.

19.2 EE shall use its reasonable endeavours to keep any suspensions under clause 19.1 to a minimum, to provide prior notice where possible and to restore the Services as soon as reasonably practicable.

19.3 Where a User has caused the Customer to be in breach of any of its obligations under clause 10, EE may suspend the Services to that specific User, but where practicable shall use its reasonable endeavours to notify the Customer in advance of such suspension to allow the opportunity for the alleged breach to be remedied.

19.4 Without prejudice to its other rights under this Agreement, EE may additionally suspend the Customer and/or all the Users' access to the relevant Service(s) where it has not received payment of outstanding Charges (including any accrued interest) within 7 days of the due date of the invoice, and where those Charges are not being disputed in good faith, or where any agreed credit limit on the Charges has been exceeded by the Customer.

19.5 The Customer shall remain liable for all Charges during any period of suspension, and where the suspension has been implemented under clauses 19.3 or 19.4, the Customer shall also pay all reasonable costs and expenses incurred by EE in the implementation of the Suspension and a Suspension Lifting Fee per suspended SIM Card. EE shall restore the Services as soon as the circumstances which gave rise to the suspension are remedied.

19.6 Suspension of a SIM Card Connection shall result in suspension of any associated Personal Line.

## 20. TERMINATION

20.1 Subject to the remainder of this clause 20, the Customer may terminate this Agreement in whole or in part and may Disconnect any individual Connection at any time by giving EE 30 days' written notice.

20.2 EE may terminate this Agreement in whole or in part by giving the Customer 30 days' written notice, provided such notice does not expire before the end of the Minimum Agreement Term.

20.3 Either party may terminate this Agreement in whole or in part at any time by notice in writing if the other party:

a. is in material or persistent breach of any of the terms of this Agreement, by giving written notice specifying the breach and (if capable of remedy) requiring it to be remedied. If the breach is not remedied within 30 days of the date of the notice, this Agreement shall end on the expiry of the 30 day notice period. If the breach is not remediable, termination will take effect immediately; or

b. becomes subject to an Insolvency Event.

20.4 The Customer may terminate a Service or an order for Equipment without liability for Termination Charges by giving EE 30 days' written notice where EE has varied the terms of, or increased the Charges under, this Agreement pursuant to clause 18 in relation to that specific Service or Equipment to the material detriment of the Customer. This right to terminate ends 60 days after the date on which the variation became effective.

20.5 The Customer shall notify EE immediately in the event the Customer undergoes a change of control and EE shall have the right to terminate the Agreement by giving at least 30 days' written notice to the Customer in the event of such change of control, provided that EE exercises its right of termination within 6 months of receipt of the Customer's notice. For the purposes of this sub-clause, "control" shall have the meaning given in section 1124, Corporation Tax Act 2010.

20.6 In deciding whether to exercise the right to terminate under clause 20.5 EE will particularly consider whether:

- a. the new controlling entity is of the same financial standing as the Customer;
- b. the overall commercial position for EE remains the same after the change of control;
- c. the new controlling entity is a UK registered company.

## 21. CONSEQUENCES OF TERMINATION

21.1 Upon expiry or termination of this Agreement (in whole or in part) for any reason, the following shall apply (and where terminated in part, shall apply to that part) subject to clause 21.2:

- a. the Customer shall pay all Charges due and payable at the relevant date;
- b. where the Agreement includes a Minimum Spend requirement the Customer shall pay EE any outstanding Minimum Spend in accordance with Part 4 of the Commercial Terms;
- c. any unused Airtime Fund to which the Customer is contractually entitled to at the date of termination shall be offset by EE against the outstanding Charges with any remainder forfeited;
- d. EE shall no longer supply and the Customer shall immediately cease to use the Services (except for EE Software embedded in such Equipment to which the Customer has title: (i) which cannot reasonably be removed or deleted from that Equipment; (ii) to the extent strictly necessary for the ongoing use of that Equipment; and (iii) subject to clause 24.3) and the Customer's Connections will be Disconnected;



- e. the parties must promptly on request return or destroy all Confidential Information (except that EE may retain such information where required for regulatory purposes) and also return any property belonging to the other (and where requested provide written confirmation of this); and
- f. all Installed Equipment or any other Equipment in which title has not passed to the Customer must be returned to EE in full working order. Where it is not returned, or if in EE's reasonable opinion is not returned in good working order, Customer must pay the List Price for such Equipment.

21.2 Notwithstanding the above, where all or part of this Agreement has been terminated:

- a. by the Customer pursuant to clause 20.3a (material or persistent breach), clause 20.3b (insolvency) or clause 20.4 (variations);
- b. by EE under clause 20.5 (change of control); or
- c. by either party under clause 29.5 (events outside parties' reasonable control),

the Customer shall only be obliged to pay the Charges due up until the date of termination. Where the Agreement includes a Minimum Spend requirement, the Customer shall pay to EE a pro-rated sum on the basis of the proportion of the Minimum Agreement Term elapsed (so that if 7/12 of the Minimum Agreement Term has elapsed at the date of termination, the Customer shall pay to EE 7/12 of its total Minimum Spend commitment).

Any unused Airtime Fund to which the Customer is contractually entitled as at the date of termination (calculated on a pro-rata basis in accordance with the proportion of the Minimum Agreement Term elapsed) shall be offset by EE against the Charges with any remainder forfeited.

21.3 Termination Charges will be payable where a Service(s) is terminated or a Connection(s) is Disconnected prior to completion of its Minimum Connection Period:

- a. by the Customer under clause 20.1; or
- b. by EE under clause 17.3 or clause 20.3.

The Customer acknowledges that the Termination Charges represent a genuine pre-estimate of the loss suffered by EE due to early termination, having regard to the overall commercial deal between the parties, and that the Termination Charges do not represent a penalty. Where applicable the Customer acknowledges and agrees that it will be liable for Termination Charges in respect of both the New Facility and the Base Facility in the event that the Base Facility is terminated during such Minimum Connection Period.

21.4 Disconnection of a SIM Card Connection shall result in automatic termination of any associated Personal Line.

21.5 EE will provide reasonable assistance to the Customer in accordance with standard telecommunications industry practice in relation to any transfer of Services to another telecommunications operator.

21.6 Termination or expiry of this Agreement (or any part of it) will not affect either party's accrued rights or liabilities and provisions of this Agreement which are intended by their nature to survive termination shall continue in force (including clauses 20, 21, 22, 23, 24, 25, 28 and 29) together with any other provisions necessary for their enforcement or interpretation.

## 22. LIABILITY

22.1 The express terms of this Agreement are in lieu of all warranties, conditions and other terms implied by statute, common law, custom, trade, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law, including any implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

22.2 Subject to clause 22.3:

- a. the total liability of each party under or arising in connection with this Agreement in contract, tort (including negligence), breach of statutory duty or otherwise, will be limited to the greater of £100,000 or 100% of the Charges paid or payable by the Customer in the first 12 months of this Agreement;
- b. EE's liability for a failed SIM Card is limited to the cost of a replacement SIM Card; and
- c. neither party will be liable to the other in contract or tort (including negligence) or otherwise for:
  - i. any loss (whether direct or indirect) of profit, business, contract, use, anticipated saving or revenue, goodwill, production, business interruption, wasted expenditure,
  - ii. any loss or corruption of data or software, or
  - iii. for any indirect or consequential loss or damage whatsoever arising under or in connection with this Agreement.

22.3 Nothing in this Agreement limits or excludes:

- a. either party's liability for death or personal injury caused by the negligence of its employees, agents or sub-contractors, for fraud or fraudulent misrepresentation or for any other matter in respect of which liability cannot lawfully be limited or excluded; or
- b. the Customer's obligation to: (i) pay the Charges or refund any Credits; (ii) pay any Termination Charges; or (iii) meet any Minimum Spend requirement.

22.4 EE will not be liable for any breach of this Agreement to the extent that any delay or failure by EE to perform its obligations results from: (a) an act, omission or delay of the Customer, its agents, sub-contractors, consultants or employees resulting in negligence or breach of law, or which is contrary to the terms of this Agreement; (b) acts, omissions or negligence of other providers of telecommunication services, except where such providers are Sub-contractors; or (c) acts, defaults, omissions or negligence of third party suppliers or manufacturers, except where such providers are Sub-contractors.



**23. INTELLECTUAL PROPERTY**

23.1 All Intellectual Property Rights used by or subsisting in the Services and Equipment shall remain the sole property of EE or (as the case may be) the relevant third party rights owner.

23.2 Where Intellectual Property Rights are created during or as a result of the supply of the Services and Equipment to the Customer, these Intellectual Property Rights shall be owned by EE or the third party rights owner as applicable. This clause shall not transfer the ownership of any Intellectual Property Rights created or owned by the Customer as a result of the receipt and ordinary use of the Services and such Intellectual Property Rights shall be owned by the Customer.

23.3 The Customer must not:

- a. do anything or allow anything to be done which might jeopardise EE's or its licensors' Intellectual Property Rights;
- b. dispute or challenge the rights of EE or the relevant third party rights owner; or
- c. apply for, or obtain, registration in any country of any trade or service mark or any other Intellectual Property Rights which consist of, or comprises of, or are confusingly similar to, the trade marks or Intellectual Property Rights of the EE Group or its licensors.

23.4 Subject to the provisions of clauses 22, 23.5 and 23.6 EE agrees to indemnify the Customer during the term of this Agreement against all losses, liabilities (including provision for contingent liabilities), fines, damages, costs and expenses including reasonable legal fees on a solicitor/client basis and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties ("Losses") to the extent suffered by, incurred by or awarded against the Customer directly as a result of any proven third party claim that the Services or EE Software infringes that third party's Intellectual Property Rights.

23.5 The Customer shall only have a right to claim the benefit of the indemnity under the above clause where it:

- a. has fully complied with the terms of this Agreement;
- b. has promptly notified EE in writing of any complaint or event which it or its staff have become aware of which has the potential to lead to a claim being made;
- c. immediately gives EE sole control to defend all claims and all settlement negotiations relevant to potential Losses being incurred in respect of a claim conducted with any relevant third party, subject to EE agreeing to provide prompt and regular consultation to the Customer;
- d. provides EE with reasonable assistance in defending such Claim (at EE's expense); and
- e. uses all reasonable endeavours to minimise and mitigate its Losses in connection with a claim.

23.6 EE will not indemnify the Customer against any claim where the Customer has operated or used the Services or EE Software in conjunction with any other equipment, device, services or software not supplied by EE under this Agreement

in such a way that has resulted in or been material in the causation of the claim.

**24. SOFTWARE LICENCE**

24.1 The Services and Equipment provided under this Agreement may contain or use EE Software or End User Licensed Software. Where EE Software is provided, EE grants the Customer a non-exclusive, revocable, non-transferable licence (without the right to sub-licence) to use any such EE Software in object code form for the purpose of properly accessing the Services in accordance with this Agreement. Any End User Licensed Software provided or accessed shall be governed by the terms of the relevant licence which shall comprise the Customer's sole rights and remedies in respect of such End User Licensed Software.

24.2 If the Customer does not accept the licence terms relating to the End User Licensed Software, it shall not use the relevant feature of the Service to which the End User Licensed Software relates and EE shall not be required to deliver the relevant Service. The Customer shall indemnify and keep indemnified EE in full and on demand for any claim or for any losses incurred or suffered by EE (including any legal costs) arising from any failure of the Customer to comply with the terms of the End User Licensed Software or EE Software.

24.3 The licence granted under this Agreement to use EE Software may be terminated if the Customer disputes the ownership of any Intellectual Property Rights under this Agreement, fails to comply with any term of this Agreement or if the continued use or possession of the EE Software infringes the rights of any third party. The licence shall further be subject to the Customer undertaking:

- a. not to copy, reproduce, translate, adapt, vary, modify, sub-licence, decompile, reverse engineer or create derivative works from or allow any third party access to any EE Software (or any part of it) unless expressly permitted to do so by EE or by relevant law; and
- b. not to use the EE Software with anything other than the Equipment, unless otherwise expressly specified or approved by EE.

24.4 EE Software delivered to the Customer by electronic means cannot be reissued and the Customer shall ensure that correct email addresses are provided for these purposes and that any firewall or other protection will not prevent such delivery.

**25. CONFIDENTIALITY**

25.1 Each party undertakes that it shall not at any time during this Agreement, and for a period of 3 years after termination of this Agreement, disclose to any person the terms of this Agreement or any Confidential Information, except as permitted by clause 25.2.

25.2 Disclosure of Confidential Information is permitted:

- a. by each party to such of its employees, officers, representatives, advisers, contractors and suppliers who need to know such information for the purposes of the implementation and/or performance of this Agreement, provided always that the disclosing party ensures such recipients comply with this clause 25;
- b. as may be required by law, court order or any governmental or regulatory authority;



- c. by EE to any debt collection agency, credit reference agency, credit or fraud monitoring scheme, security agency or credit provider of any information relating to the Customer's account and performance under this Agreement, and to any member of the EE Group, for fraud prevention, credit checks, debt recovery, crime and money laundering prevention and account management;
- d. by EE as may be permitted pursuant to Data Protection Legislation;
- e. with the consent of the disclosing party;
- f. to the extent that information has come into the public domain through no fault of the receiving party; and/or
- g. by the Customer to members of its Group to the extent required in connection with clause 11.

## 26. DATA PROTECTION

- 26.1 The Customer shall ensure that Users' Personal Data is accurate and up to date when disclosed to EE.
- 26.2 The Customer shall ensure that it has obtained all necessary consents under Data Protection Legislation to disclose its Users' Personal Data to EE and for EE to process Users' Personal Data for the purpose of this Agreement.
- 26.3 Each party shall comply with its obligations under Data Protection Legislation. The Customer acknowledges and agrees that EE shall remain the Data Controller of Users' Personal Data except in the limited circumstances where EE processes any Users' Personal Data for and on behalf of the Customer.
- 26.4 EE will process Users' Personal Data:
- a. for the provision of the Services (and for these purposes EE may share such Personal Data with its suppliers, Sub-contractors and service partners);
  - b. for the purpose of fulfilling its obligations under this Agreement;
  - c. as may be required by law, court order or any governmental or regulatory authority; and
  - d. in accordance with its privacy policy (as amended from time to time and which is available at [www.ee.co.uk/business/terms](http://www.ee.co.uk/business/terms)) and the Customer agrees that it will bring EE's privacy policy to the attention of its Users.
- 26.5 EE shall implement appropriate technical and organisational security measures against unauthorised or unlawful processing of Users' Personal Data and against accidental loss or destruction of, or damage to, Users' Personal Data.
- 26.6 EE may share the Customer's and Users' information with other EE Group companies. EE may also share the Customer's and Users' information with service partners for data analytics. The Customer agrees to EE and/or its service partners keeping it and its Users informed about EE, EE Group and third party products, services and offers. EE may also share Customer's and Users' information with service partners for third party marketing purposes. EE, an EE Group company or a service partner acting on behalf of EE may

contact the Customer and its Users by telephone, mail or electronically (e.g. text message or email), to let the Customer and/or Users know about EE, EE Group or third party products, services or offers that may be of particular interest.

- 26.7 EE shall not transfer any Personal Data disclosed by the Customer to any country outside of the European Economic Area unless EE ensures that such data is subject to an adequate level of protection in accordance with the Data Protection Act 1998.
- 26.8 Any disclosure of Users' Call Data Records by EE to the Customer will be subject to the Customer completing and submitting to EE a request for those records, EE's policies for disclosures of Call Data Records as amended from time to time and any applicable legal and regulatory restrictions. Any request must be in writing using EE's current standard format (which is available on request).

## 27. CREDIT SECURITY

- 27.1 EE may carry out credit assessments of the Customer with licensed credit reference agencies when an application is made to EE for the provision of any Services and/or Equipment and as reasonably required during the term of this Agreement (including when additional Services or Equipment are requested). Such agencies will record EE's search.
- 27.2 EE can at its sole discretion decide whether the Customer's credit status is acceptable and reserves the right to refuse to supply and/or limit the supply of a particular Service and/or Equipment, or to impose a credit limit on the Customer's account in the event the Customer's credit status changes.
- 27.3 At the Customer's request, EE will provide details of the credit reference and fraud prevention agencies that EE shares information with.
- 27.4 EE will not carry out personal credit assessments of any individuals associated with the Customer without the prior consent of such individuals.
- 27.5 EE may request that the Customer lodge a deposit for such sum as EE may deem appropriate in the following circumstances:
- a. prior to the provision of particular Services or Equipment, or Connection of a particular Device;
  - b. before reinstating Services after any suspension; or
  - c. if EE at its sole discretion decides that the Customer's credit status is unacceptable following a credit assessment.
- 27.6 Deposits taken by EE under clause 27.5 will be held for 12 months from the date of receipt, or (if earlier) until the termination of this Agreement, and then refunded to the Customer upon request. EE does not pay interest on deposits. EE may set off deposits against any amount owed by the Customer to EE under this Agreement. Any balance left after such set off will be refunded to the Customer by way of a credit to the Customer's account.

## 28. LEGAL COMPLIANCE

- 28.1 Each party shall:



- a. comply with all applicable laws, statutes, regulations, codes and guidance relating to anti-bribery and anti-corruption ("**Anti-bribery Laws**"), including without limitation the Bribery Act 2010 and shall not do, or omit to do, any act that will cause the other party to be in breach of the Anti-bribery Laws;
- b. not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
- c. promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of this Agreement; and
- d. maintain throughout the term of this Agreement its own anti-bribery policies and procedures including without limitation adequate procedures (within the meaning of section 7(2) Bribery Act 2010) to ensure compliance with the Anti-Bribery Laws and shall enforce such policies and procedures where appropriate.

28.2 The Equipment and/or Software may be subject to export control laws and regulations. The Customer agrees to comply with any applicable export laws, regulations, prohibitions or embargoes of any country and agrees to obtain written authority from the relevant licensing authority where necessary.

28.3 EE does not represent that any necessary export approvals and/or licences have been obtained or will be granted in respect of the Equipment or the Software.

28.4 The Customer is responsible under Regulation 9 of the Waste Electrical and Electronic Equipment Regulations 2006 ("**WEEE Regulations**") for the costs of collection, treatment, recovery, recycling and environmentally sound disposal of any Equipment that has become waste electrical and electronic equipment. The Customer is responsible for any information recording or reporting obligations imposed by the WEEE Regulations.

## 29. GENERAL TERMS

### Notices

29.1 All notices given to a party under or in connection with this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service to the address given in this Agreement, or sent by email to b2bnotices@ee.co.uk (where sent by the Customer) or to the Customer Representative's email address set out in this Agreement (where sent by EE). EE may also send notices to the Customer via the Customer Representative or Users by text or other form of electronic message to the relevant Device.

29.2 All notices will be deemed served 48 hours after they are sent, or on earlier proof of delivery. Notices sent by email, text or other electronic means will be deemed served at the time of transmission.

29.3 The provisions of clauses 29.1 and 29.2 shall not apply to the service of any proceedings or to the service of any other documents in any legal action.

### Waiver

29.4 The failure or delay by either party to exercise a right or remedy under this Agreement does not constitute a waiver of the right or remedy or of any other rights or remedies. No single or partial exercise or waiver of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy.

### Events outside of the parties' reasonable control

29.5 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for 60 days, either party may terminate this Agreement on 14 days' written notice to the other.

### No legal partnership

29.6 Nothing in this Agreement creates, is intended to create, or shall be deemed to have created a legal partnership or joint venture of any kind between the parties, nor constitute any party the agent or distributor of the other for any purpose and no party shall have authority to act as agent for, nor to bind, the other party in any way.

### Invalidity

29.7 If any provision of this Agreement becomes void, illegal or unenforceable, the remainder of this Agreement shall remain in full force and effect and neither party shall be discharged from its remaining obligations. If any such invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted or modified, the parties shall negotiate in good faith to agree a replacement provision with the minimum modification necessary to achieve the same (or nearly as possible) commercial effect.

### Public contracts

29.8 A Customer that is a contracting authority (as defined in the Public Contracts Regulations 2006) warrants and represents that it has entered into this Agreement in compliance with the Public Contracts Regulations 2006, Directive 2004/18/EC and the general EU Treaty provisions.

29.9 In the event that any court makes a declaration of ineffectiveness or orders that the Minimum Connection Period of any Service under this Agreement be shortened, then that Service will be terminated and the Customer shall pay the Termination Charges.

### No third party rights

29.10 Except for the rights of the insurer under any Insurance Terms and Conditions, a person who is not a party to this Agreement shall not have any rights under or in connection with it. No member of the Customer's Group shall have any right to directly enforce any provision of this Agreement.

### Transfer of this Agreement

29.11 Subject to clauses 29.12 and 29.13, neither party shall assign, transfer, mortgage, charge, sub-contract or deal in any other manner with any of its rights and obligations under this



Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).

29.12 EE may novate this Agreement or assign any of its rights hereunder to: (i) any entity or person within its Group; or (ii) any entity or person to whom EE transfers the whole or part of its business. The Customer agrees that, within 14 days of a request from EE, it will enter into a novation on terms reasonably requested by EE to give effect to a novation under this clause.

29.13 EE may sub-contract any of its obligations under this Agreement provided it remains liable to the Customer to the extent set out in this Agreement for such performance. Where the Agreement requires the Customer to provide information, assistance or access to EE or requires the Customer to comply with instructions of EE, the Customer acknowledges that it will be required to provide equal co-operation to EE's Sub-contractors.

#### Whole agreement

29.14 This Agreement constitutes the entire agreement between the parties with regard to the subject matter of this Agreement and supersedes any previous negotiations, representations, warranties, proposals and agreements (whether written or oral).

29.15 The parties acknowledge that they have not been induced to enter into this Agreement in reliance upon any representation or other statement or promise of any nature whatsoever other than as expressly set out in this Agreement and, save as expressly set out in this Agreement, neither party shall have any liability in respect of any other representation, warranty or promise made prior to the date of this Agreement unless it was made fraudulently.

#### Dispute resolution

29.16 The parties shall use their reasonable endeavours to resolve disputes arising from or in connection with this Agreement ("**Disputes**"). If either party wishes to raise a Dispute, it shall notify the other party in writing of the existence and reasons for such Dispute. The Customer Representative and a representative of EE shall then meet and use reasonable endeavours to try to resolve the Dispute as soon as reasonably practicable. Where a Dispute arises and cannot be resolved by consultation at senior management level within 30 days of notification, the parties may agree to follow an alternative dispute resolution procedure in good faith, sharing the costs and fees equally unless otherwise determined within that procedure.

29.17 A Customer with no more than 10 employees may be able to take a dispute to adjudication under the Communications and Internet Services Adjudications Scheme details of which are set out within EE's Code of Practice for Complaints at [www.ee.co.uk/complaints](http://www.ee.co.uk/complaints).

29.18 Nothing in this Agreement prevents either party from seeking a legal remedy through the courts at any time.

29.19 Where a party ("**Damaged Party**") is subject to a third party claim which gives a right of action against the other party ("**Liable Party**"), the Damaged Party shall promptly notify the Liable Party of the details of the claim and allow (at the Liable Party's expense) the Liable Party to defend or direct the defence of such third party claim and shall provide all reasonable co-operation to avoid or minimise such claim. The

Damaged Party must not make any admission of liability, agreement or compromise in relation to the claim unless directed to do so in writing by the Liable Party.

#### Law and Jurisdiction

29.20 This Agreement and any dispute or claim arising out of or in connection with it shall be governed by and construed in accordance with English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.